

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

TIMOTHY J. DONOHUE,	)	Case No. 4:22-CV-4044-LLP
	)	
Plaintiff,	)	
	)	
v.	)	PLAINTIFF’S STATEMENT
	)	OF UNDISPUTED MATERIAL
ARTHUR J. GALLAGHER & CO., a	)	FACTS
Delaware corporation; and BOB	)	
JACOBSEN,	)	
	)	
Defendants.	)	

Pursuant to FRCP 56 and L.R. 56.1A, Plaintiff hereby provides the following Statement of the Undisputed Material Facts in support of its Motion for Partial Summary Judgment:

1. From February 5, 2018 to February 2, 2022, Plaintiff (“Tim”) was employed by Arthur J. Gallagher & Co. (“AJG”) as an insurance producer based in Sioux Falls, South Dakota. See Exhibit A attached to Plaintiff’s Complaint.

2. Tim’s employment with AJG was pursuant to an Employment Agreement dated February 5, 2018, a true copy of which is attached to the Complaint as Exhibit A.

3. In January 2022, Tim was requested by legislators and a private individual to provide testimony at a legislative committee hearing concerning Senate Bill 92 (“SB 92”), a true copy of which is attached to the Complaint as Exhibit B and to the Affidavit of Steven W. Sanford as Exhibit C. See also Affidavit of Timothy J. Donohue.

4. SB 92 was introduced and supported by 14 legislators, including two former Circuit Court Judges. See Exhibit C to Affidavit of Steven W. Sanford.

5. On January 25, 2022, Tim appeared before the South Dakota Legislature Senate Commerce and Energy Committee and gave oral testimony, which included only insurance industry background and the history and purpose of insurance pools that were the subject of the Bill. See hearing audio link submitted as Exhibit A to the Affidavit of Steven W. Sanford.

6. While Tim identified himself by name and occupation, he did not disclose his employment or any other affiliation. See Affidavit of Tim, ¶ 3.

7. The Bill was defeated in Committee on the day of Tim's testimony. See Exhibit C to Affidavit of Steven W. Sanford.

8. The websites for the worker's compensation insurance pool funds that were the subjects of the Bill show that they were not clients or customers of AJG or any affiliate. [www.asbsd.org/index.php/protective-trust/asd-workers-comp/](http://www.asbsd.org/index.php/protective-trust/asd-workers-comp/); [www.sdmlwcfund.com](http://www.sdmlwcfund.com).

9. On February 2, 2022, Defendant Jacobsen, on behalf of AJG, spoke to Tim by telephone and terminated his employment with AJG because of his testimony before the Legislative Committee. See Affidavit of Timothy J. Donohue, ¶ 5.

Dated: July 7, 2022

CADWELL SANFORD DEIBERT  
& GARRY LLP

By /s/ SW Sanford

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